

**ENTERED**

May 18, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

SARA A. TUCKER,

Plaintiff,

VS.

SWEETWATER POOLS, INC.,

Defendant.

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CIVIL ACTION NO. H-15-3736

**MEMORANDUM AND OPINION DISMISSING PENDING MOTION AS MOOT IN  
LIGHT OF THE PLEADING AMENDMENT**

On December 29, 2015, the plaintiff, Sara Tucker, sued Sweetwater Pools, Inc. under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.* (Docket Entry No. 1). On April 1, 2016, Sweetwater moved to dismiss Count Two of the complaint under Federal Rule of Civil Procedure 12(b)(6). (Docket Entry No. 10). On April 5, Tucker amended the complaint as a matter of course under Rule 15(a)(1). (Docket Entry No. 12). The amended complaint withdrew Count Two.

Sweetwater’s motion to dismiss is dismissed as moot, subject to reurging, in light of the pleading amendment. (Docket Entry No. 10). The initial conference is set for **May 25, 2016 at 11:30 a.m.** in Courtroom 11-B.

SIGNED on May 18, 2016, at Houston, Texas.



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Lee H. Rosenthal  
United States District Judge